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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES

Chairman

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Commissioner

PAUL NEWMAN

Commissioner

SANDRA D. KENNEDY

Commissioner

BOB STUMP

Commissioner

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE REVIEW AND
POSSIBLE REVISION OF ARIZONA
UNIVERSAL SERVICE FUND RULES,
ARTICLE 12 OF THE ARIZONA
ADMINISTRATIVE CODE

DOCKET NO. RT-00000H-97-0137

IN THE MATTER OF THE
INVESTIGATION OF THE COST OF
TELECOMMUNICATIONS ACCESS.

DOCKET NO. T-00000D-00-0672

NOTICE OF JOINT FILING

Qwest Corporation and Qwest Communications Company LLC jointly file the Rejoinder
Testimony of Lisa Hensely Eckert and Peter Copeland, respectively.

Respectfully submitted this 5th day of March, 2010.

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QWEST COMMUNICATIONS COMPANY, LLC

Arizona Corporation Commission

DOCKETED

MAR - 5 2010

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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN MAYES

Chairman

GARY PIERCE

Commissioner

SANDRA KENNEDY

Commissioner

PAUL NEWMAN

Commissioner

BOB STUMP

Commissioner

IN THE MATTER OF THE REVIEW AND)	
POSSIBLE REVISION OF ARIZONA)	
UNIVERSAL SERVICE FUND RULES,)	DOCKET NO. RT-00000H-0137
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)	
IN THE MATTER OF THE INVESTIGATION)	
OF THE COST OF TELECOMMUNICATIONS)	DOCKET NO. T-00000D-00-0672
ACCESS)	

REJOINDER TESTIMONY

OF

LISA HENSLEY ECKERT

ON BEHALF OF

QWEST CORPORATION

MARCH 5, 2010

REJOINDER TESTIMONY OF LISA HENSLEY ECKERT

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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH QWEST CORPORATION.

A. My name is Lisa Hensley Eckert. My business address is 1801 California Street 47th floor, Denver, Colorado, and I am currently employed by Qwest Corporation ("Qwest") as Director of Intercarrier Compensation in the Public Policy department.

Q. DID YOU FILE DIRECT AND REPLY TESTIMONY IN THIS CASE?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I am responding to the testimony of AT&T and the Joint CLECs. AT&T continues to argue that despite the history of access rates in Arizona, Qwest rates should also be reduced, in spite of the fact that this phase of the docket was to focus on the access rates of Rural ILECs and CLECs. AT&T also claims that the rates it negotiated in numerous unfilled secret agreements with CLECs are not dispositive of a reasonable rate for purposes of this proceeding. The Joint CLECs continue to rationalize the excessive rates which they charge.

III. INCLUSION OF QWEST IN THE SWITCHED ACCESS REDUCTIONS

Q. AT&T ARGUES THAT QWEST ACCESS RATES SHOULD BE INCLUDED IN THE REDUCTIONS FOR OTHER LECs. SPECIFICALLY, THEY CLAIM THAT A UNIFORM RATE IS BAD POLICY AND THAT QWEST IS ENGAGING IN “NOT IN MY BACK YARD” BEHAVIOR. WHAT IS YOUR REACTION?

A. First, just because AT&T doesn't agree with something doesn't make it de facto bad policy. Secondly, Qwest's proposal brings the CLECs in line with the current Qwest rates, which, with the rural ILECs, are the actual parties subject to this docket. AT&T itself previously argued for the very bifurcation that they are now arguing against. The other parties which support Qwest's position- Staff, Verizon, and ALECA- all agree that switched access reform is best addressed by bringing the previously bifurcated LECs into line with the Qwest reforms before moving further.

Q. BOTH AT&T WITNESSES ARGUE THAT UNLIKE AT&T, QWEST ACCESS RATES ARE GENERALLY HIGH. BECAUSE OF THIS, QWEST ACCESS RATES SHOULD BE LOWERED. DO YOU AGREE?

A. No, this is a naïve assertion, which does not take into account the lack of a revenue neutral offset. Qwest has long advocated that intrastate access rates should go to interstate rates, if done in a revenue neutral manner through local rate increases. AT&T was given a quid pro quo in the form of regulatory approvals it was seeking in various areas of its operations or local rate increases when lowering its access rates as a result of prior merger activities, and therefore was able to make access rate changes to an entire region. Qwest does not have the same ability in all states, but where it has been allowed a revenue neutral offset with

1 local rate increases, Qwest has reduced switched access rates. Secondly, not all AT&T
2 RBOC locations are set at interstate rates. To claim otherwise is simply not true.

3 **Q. DR. ARON CLAIMS THAT MATCHING THE ILEC RATES WOULD NOT**
4 **MIRROR THE FCC MANDATE. DO YOU AGREE?**

5 A. No. The FCC clearly stated that CLECs were to mirror the already existing interstate
6 access rates of the LEC with whom they compete. Nowhere did the FCC say that any
7 LECs must mirror the intrastate rates with the interstate rates. The FCC clearly has
8 jurisdiction over the interstate rates but not over intrastate rates.

9 **Q. WOULD YOU REITERATE QWEST'S POSITION?**

10 A. Qwest's position is that reductions in the switched access rates of CLECs and rural ILECs
11 are long overdue. Qwest has repeatedly reduced switched access rates in Arizona, which
12 has caused competitive distortions whereby CLECs have been able to use switched access
13 rates to subsidize local rates, thereby allowing them to charge lower rates for local service,
14 and gain an unfair advantage in the market place. Secondly, Qwest's position on arbitrage
15 is the result of various kinds of disputes, of which traffic pumping is one type of dispute.
16 Qwest believes that the most efficient way to deal with the arbitrage issues is for other
17 LECs to reduce their rates to a single uniform Intrastate rate. This positions the states to
18 deal with any future regulatory changes -either at the state level or at the FCC- from a level
19 playing field.

IV. SECRET ACCESS DEALS PROVIDE GUIDANCE TO THE COMMISSION

Q. DR. ARON HAS CLAIMED THAT SHE CAN NOT VALIDATE QWESTS ARGUMENT THAT THE NEGOTIATED RATES ARE IN FACT THE RBOC RATES. NONETHELESS, SHE CLAIMS THAT THE FACT THAT COMPANIES NEGOTIATED A MARKET RATE IS NOT DISPOSITIVE OF A REASONABLE RATE. DO YOU AGREE?

A. No. Many of the agreements provided were specifically AT&T agreements with a number of CLECs. BEGIN CONFIDENTIAL

Redacted

CONFIDENTIAL¹ For most of Arizona, and certainly for the largest population centers, that ILEC is Qwest.

Dr. Aron says that the agreements are immaterial, since the agreement rates merely reflect negotiations, and that the IXC's had limited recourse with the market power of the CLECs. The reverse is actually true. AT&T bargained with CLECs for lower rates than the CLECs' tariffs provided for, demonstrating that AT&T had significant bargaining power. AT&T used that power to gain lower switched access rates for themselves. At the same time AT&T was negotiating these secret rates with CLECs they were aggressively pursuing regulatorily-compelled reductions of Qwest access rates, which were reduced in 2001, 2002, 2003, and 2006. The first CLEC agreement AT&T entered into in Arizona appears

¹ See Highly Confidential Exhibit LHE-3 for the unredacted information.

1 to be in **BEGIN HIGHLY CONFIDENTIAL**

Redacted

2 **Redacted** **END HIGHLY CONFIDENTIAL**² For CLECs, however,
3 until the comparatively recent revival of interest in this docket, AT&T has forgone
4 regulatory action to lower CLEC switched access rates. AT&T's failure to press for further
5 reductions by way of regulatory action shows that ATT's contracted rates were, and are, at
6 a fair and reasonable level. Further, as I pointed out in my earlier testimony, the fact that
7 these were negotiated rates is highly probative of what AT&T was willing to accept as a
8 fair and reasonable rate.

9 I have previously testified that **BEGIN HIGHLY CONFIDENTIAL-**

10
11 **Redacted**

12
13 **END HIGHLY CONFIDENTIAL**³ This language is typical of
14 the agreements. Inasmuch as AT&T's witness has essentially disavowed those
15 agreements, it is necessary to include them here. I have attached those **BEGIN HIGHLY**
16 **CONFIDENTIAL** **END HIGHLY CONFIDENTIAL**⁴ agreements as Highly
17 Confidential Exhibit LHE-4 to my testimony. These agreements were produced by AT&T
18 pursuant to Qwest's subpoena. I direct the Commission's attention, specifically to
19 Schedule A of those agreements. Included in Highly Confidential Exhibit LHE-4⁵ are
20 agreements between A&T and the following CLECs:

² ibid

³ ibid

⁴ ibid

⁵ Copies of Highly Confidential Exhibits LHE-3 and LHE-4 have been provided under separate cover to all parties who have signed the protective agreement in this docket.

1 **BEGIN HIGHLY CONFIDENTIAL**

2
3
4
5
6
7
8 **Redacted**
9
10
11
12
13
14

15 **END HIGHLY CONFIDENTIAL⁶**

16 As I noted in my Direct testimony filed previously, of all the secret access agreements
17 AT&T entered into, the most commonly stated rate conforms to the ILEC rate.

18 **V. CLEC RESISTENCE TO ACCESS REFORM**

19 **Q. MR. DENNEY, ON BEHALF OF THE JOINT CLECS, CLAIMS THAT ONLY**
20 **TERMINATING ACCESS IS A MONOPOLY SERVICE, AND THEREFORE**
21 **ONLY TERMINATING ACCESS SHOULD BE SUBJECT TO REFORM. DO YOU**
22 **AGREE?**

23 **A.** No. First, this supposition ignores that the true cost causers for both terminating and
24 originating access are the end user customers. No call takes place until an end user picks
25 up the telephone and places a call, and that the call is not completed until the called party
26 picks up the phone and the completes the call. The IXC is chosen by the originating end
27 user, not the other way around. Secondly, the FCC, in the 7th and 8th report and order

⁶ See Highly Confidential Exhibit LHE-3 for the unredacted information.

1 does not make a distinction between originating and terminating access, and in fact the 7th
2 report and order specifically addresses both as monopoly services.

3 Given the unique nature of the market in which the IXC's purchase CLEC access,
4 however, we conclude that it is necessary to constrain the extent to which CLEC's
5 can exercise their monopoly power and recover an excessive share of their costs
6 from their IXC access customers – and, through them, the long distance market
7 generally. On the other hand, we continue to abstain entirely from regulating the
8 market in which end-user customers purchase access service. Accordingly, CLEC's
9 remain free to recover from their end users any greater costs that they incur in
10 providing either originating or terminating access services.⁷

11 Mr. Denny claims that IXC's could choose not to serve CLEC end users customers because
12 CLEC's access rates are excessive by competing for the local customer themselves so that
13 the CLEC will lose the customer.⁸ That argument misses the point entirely, and proceeds
14 on the dubious legal and public policy premise that CLEC customers may be isolated from
15 the benefits of competitive long distance service. The suggestion that IXC's could charge
16 different rates to the customers of CLEC's is contrary to the FCC rate averaging and
17 integration rules⁹ under which IXC's must price to end users. Therefore, the next solution
18 for IXC's would be to choose not to serve CLEC end user customers in any given state
19 because the CLEC has excessive access rates means that CLEC customers could be without
20 any choice of long distance carrier. If an IXC did refuse to accept a long distance customer
21 of a CLEC, I am certain that the CLEC would claim that the IXC was discriminating
22 against it and would file a complaint against the IXC. They cannot have it both ways. The

⁷ *In the Matter of Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9941-49 ¶ 38 (2001)

⁸ See Reply Testimony of Doug Denney on Behalf of Joint CLEC's, pages 12-14.

⁹ *Geographic Rate Averaging and Rate Integration* 47 C.F.R. Sec. 64.1801

1 important point, which Mr. Denny's argument overlooks, is that every call originating from
2 a CLEC end user must necessarily pass through the CLEC's gateway to the rest of the
3 world—a gateway that the CLEC owns and controls.

4 **Q. THE 1999 QWEST RATES ARE PROPOSED BY MR. DENNEY AS THE**
5 **APPROPRIATE RATE LEVEL FOR CLEC ACCESS RATES TO BE**
6 **BENCHMARKED. HOW DO YOU RESPOND?**

7 A. 10 year old rates are not appropriate. The competition in the market place is taking place
8 today, not 10 years ago. Since that time, the FCC has regulated CLEC switched access
9 rates, local competition has increased, and the ability of CLECs to use access rates as a
10 means to gain an unfair advantage in the market place has become clear. It is not
11 appropriate to allow the distortions in the market place to continue.

12 **Q. MR. DENNEY ADDRESSES FEDERAL RATE STRUCTURE AND SLCS. IS**
13 **THAT APPROPRIATE IN AN INTRASTATE ACCESS DOCKET?**

14 A. No. It is particularly not appropriate when discussing a rate which "could have been" if the
15 SLC were converted to a per minute of use basis. Aside from that, the CLECs should be
16 allowed to recover a reduction in access rates through a local rate increase, which would
17 end up with the same result as a SLC, but without the implementation costs.

18 **VI. SUMMARY OF TESTIMONY**

19 **Q. WOULD YOU SUMMARIZE YOUR TESTIMONY?**

20 A. Qwest supports the positions of Staff, Verizon, and ALECA regarding switched access
21 reform, in that the Rural and CLEC switched intrastate access rates should be reduced to

1 the level of Qwest current switched access rates and that such reduction should be
2 recovered primarily through local rate increases. Accomplishing that objective will be a
3 monumental achievement. Once the rates of the other LECs are in line with Qwest rates,
4 future switched access reductions should include all LECs going forward so that no single
5 LEC is competitively disadvantaged.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 **A. Yes.**

**IN THE MATTER OF THE REVIEW AND
POSSIBLE REVISION OF ARIZONA
UNIVERSAL SERVICE FUND RULES,
ARTICLE 12 OF THE ARIZONA
ADMINISTRATIVE CODE**

**IN THE MATTER OF THE
INVESTIGATION OF THE COST OF
TELECOMMUNICATIONS ACCESS**

STATE OF DENVER
COUNTY OF DENVER

**AFFIDAVIT OF
LISA HENSLEY ECKERT**

: SS

1. My name is Lisa Hensley Eckert. I am Staff Director Public Policy for Qwest Corporation in Denver, Colorado. I have caused to be filed written Rejoinder Testimony in Docket Nos. RT-00000H-97-0137 and T-00000D-00-0672.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.



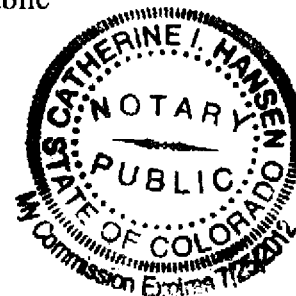
Lisa Hensley Eckert

SUBSCRIBED AND SWORN to before me this 1 day of March, 2010.

Catherine Hansen
Notary Public

My Commission Expires:

7/25/2012



BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN MAYES

Chairman

GARY PIERCE

Commissioner

SANDRA KENNEDY

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PAUL NEWMAN

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BOB STUMP

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OF THE COST OF TELECOMMUNICATIONS)	DOCKET NO. T-00000D-00-0672
ACCESS)	

REJOINDER TESTIMONY

OF

PETER B. COPELAND

ON BEHALF OF

QWEST CORPORATION

MARCH 5, 2010

REJOINDER TESTIMONY OF PETER B. COPELAND

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VI. SUMMARY OF TESTIMONY..... 5

1 **I. IDENTIFICATION OF WITNESS**
2

3 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
4 **WITH QWEST CORPORATION.**

5 A. My name is Peter B. Copeland. My business address is 1801 California Street,
6 Denver, Colorado, and I am currently employed by Qwest Corporation ("Qwest")
7 as Director of Cost and Economic Analysis in the Public Policy department.
8

9 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?**

10 A. Yes.
11

12 **II. PURPOSE OF TESTIMONY**
13

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. My testimony covers universal service positions presented by the parties to this
16 docket. Specifically, I respond to several specific issues from Reply Testimony
17 raised by ALECA, Verizon, and AT&T.
18

19 **III. QWEST'S RECEIPT OF FEDERAL USF IN ARIZONA**
20

21 **Q. MR MEREDITH STATES¹ THAT QWEST INCORRECTLY STATED**
22 **THAT QWEST DOES NOT RECEIVE FEDERAL HIGH COST SUPPORT**

¹ Reply Testimony of Donald Meredith, page 6, lines 4 through 16.

1 **IN ARIZONA? WOULD YOU PLEASE RESPOND TO MR. MEREDITH'S**
2 **STATEMENT?**

3 A. In my direct testimony, at page 3, I was discussing federal high cost support that
4 offsets intrastate costs. I noted that the rural carriers in Arizona received \$31
5 million in federal support that offsets intrastate costs. Qwest receives no such
6 federal support that offsets intrastate cost. Mr. Meredith mistakenly points to
7 Qwest's receipt of federal Interstate Access Support (IAS) which the FCC
8 describes,

9
10 In contrast to the Commission's existing high-cost support mechanisms for
11 rural and non-rural carriers, which provide support to enable states to ensure
12 reasonable comparability of *intrastate* rates, the purpose of the new federal
13 interstate access universal service support mechanism is to provide explicit
14 support to replace the implicit universal service support in *interstate* access
15 charges.²

16
17 **IV. AUSF FUNDING FOR CENTRALIZED ADMINISTRATION OF LIFELINE**
18 **AND LINKUP**

19

² Sixth Report and Order in CC DOCKET NOS. 96-262 AND 94-1, Reprot and Order in
DOCKET NO. 99-249, Eleventh Report and Order in CC DOCKET NO. 96-45, released
May 31, 2000 at paragraph 195. FCC 00-193.

1 **Q. WHICH PARTIES IN THIS DOCKET SUPPORT THE FUNDING OF A**
2 **CENTRALIZED ADMINISTRATION OF LIFELINE AND LINK-UP**
3 **VALIDATION THROUGH THE AUSF?**

4 A. ALECA and Qwest both recommend that AUSF be used to fund a centralized
5 validation program through the combination of the Arizona Department of
6 Economic Security and the Family Assistance Program. According the 2005
7 “Report and Recommendations of the Arizona Eligible Telecommunications
8 Carriers on Lifeline and Link-up Issues” (Report & Recommendations), these two
9 agencies work with households that comprise approximately 77 percent of eligible
10 Lifeline recipients. This report found that by utilizing such a centralized process
11 that approximately 400,000 additional qualifying households could be added to the
12 lifeline program.

13
14 **Q. WHY DOESN'T AT&T SUPPORT THE CONSIDERATION OF THE**
15 **LIFELINE AND LINK-UP ISSUES IN THIS DOCKET?**

16 A. In her reply comments, Dr. Oyefusi states, “Access reform should be segregated
17 from Lifeline and Link-up, such that it does not disturb the availability of,
18 eligibility for, and the retail rates charged for Lifeline and Link-up.” Since this
19 docket includes both access reform and universal service issues, Dr. Oyefusi’s
20 recommendation seems arbitrary and it disregards the public policy goals of
21 universal service in Arizona.

22

1 **Q. DOES FUNDING THE CENTRALIZED ADMINISTRATION OF LIFELINE**
2 **AND LINK-UP PROGRAMS THROUGH AUSF CHANGE THE**
3 **ELIGIBILITY OR RATES CHARGED FOR LIFELINE AND LINK-UP**
4 **SERVICES?**

5 **A.** No. The eligibility requirements for Lifeline and Link-up services remain the same
6 as do the retail rates for Lifeline and Link-up. The only change is that households
7 that are currently eligible for the program, but apparently unaware of its
8 availability, would have more direct access to information to enroll in the Lifeline
9 and Link-up programs. Funding the centralized administration as proposed in the
10 Report and Recommendations would enhance the Arizona Universal Service goals
11 by increasing access to telephone service.

12
13 **V. CONTRIBUTIONS TO AUSF**

14
15 **Q. TO THE EXTENT THAT THE AUSF IS EXPANDED TO COVER SOME**
16 **PORTION OF ACCESS REFORM, DOES QWEST BELIEVE THAT THE**
17 **AUSF CONTRIBUTION MECHANISM AND RULES SHOULD BE**
18 **REVAMPED?**

19 **A.** Yes. As I stated in my direct testimony, under the circumstances of an expanded
20 AUSF, the Commission should utilize a broad-based, competitively neutral
21 assessment so that all intrastate telecommunications customers and carriers
22 contribute to the Fund.

**Q. WHY DOES VERIZON NOT SUPPORT BROAD-BASED FUND
CONTRIBUTIONS THAT INCLUDE WIRELESS CARRIERS?**

A. Verizon appears to confuse the issue of unnecessary expansion of the AUSF, with the funding mechanism itself. No party in this case supports the unnecessary expansion of the fund. Qwest proposed mechanisms, such as the basic local rate benchmark and earnings reviews to ensure any support provided by the fund is, in fact, necessary. However, excluding wireless carriers from contributing to an AUSF funding mechanism is not competitively neutral and will distort marketplace decisions between wireline and wireless service. Further, wireless carriers receive benefits from the AUSF because the fund results in higher subscription to telephone services which benefits all network customers.

VI. SUMMARY OF TESTIMONY

Q. CAN YOU BRIEFLY SUMMARIZE YOUR TESTIMONY?

A. Yes. Qwest proposes that the AUSF rules be changed in order to be eligible to utilize the AUSF for access reform. LECs must first increase end user rates to a benchmark level determined by the Commission to recover the reductions in intrastate access revenue. Second, if LECs seek support from the AUSF because increases to end users rates are insufficient to cover their financial needs, carriers must meet the terms of a simplified earnings showing per the existing AUSF rules. Additionally, the basis for collecting the AUSF funds should change to a uniform

1 surcharge on intrastate revenues of all telecommunications carriers in the state,
2 including wireless, rather than the current collection mechanism.

3

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 A. Yes.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE REVIEW AND
POSSIBLE REVISION OF ARIZONA
UNIVERSAL SERVICE FUND RULES,
ARTICLE 12 OF THE ARIZONA
ADMINISTRATIVE CODE

DOCKET NO. RT-00000H-97-0137

IN THE MATTER OF THE
INVESTIGATION OF THE COST OF
TELECOMMUNICATIONS ACCESS

DOCKET NO. T-00000D-00-0672

STATE OF DENVER
COUNTY OF DENVER

AFFIDAVIT OF
PETER COPELAND

: SS

Peter Copeland, of lawful age being first duly sworn, deposes and states:

1. My name is Peter Copeland. I am Director, Legal Issues for Qwest Corporation in Denver, Colorado. I have caused to be filed written Rejoinder Testimony in Docket Nos. RT-00000H-97-0137 and T-00000D-00-0672.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Peter Copeland

Peter Copeland

SUBSCRIBED AND SWORN to before me this 1st day of March, 2010.

Catherine Hansen

Notary Public

My Commission Expires:

7/25/2012

